

Application No. 10/623,433
Attorney Docket No. 1451-0001

REMARKS

The present application includes claims 70-89, all of which were rejected, By this Amendment, claims 81-89 have been canceled.

Claims 81-89 have been canceled to clarify and simplify the remaining issued for consideration in the present application in order to speed issuance or simplify the remaining issues for appeal. The applicant does not disclaim the subject matter of claims 81-89

Claims 70-80 were rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Claims 70-80 include independent claims 70 and 76. With regard to the standard for determining that the applicant has complied with the written description requirement, the Applicant notes the following as recited at MPEP 2163.02:

“Whenever the issue arises, the fundamental factual inquiry is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed.”

Also, as further recited at MPEP 2163.02

“Possession may be shown in a variety of ways, including description of an actual reduction to practice ...”

And,

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The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.”

The Examiner’s attention is drawn to the enclosed Declaration Of Inventor Jeffrey Arnold. In the Declaration, the inventor points to a specific reduction to practice recited in the specification and relates the reduction to practice to specific elements recited in claims 70 and 76. Consequently, the Applicant respectfully submits that the applicant was in possession of the invention, certainly with reasonable clarity to those skilled in the art, and that the claim language need not be described in the same terms as set forth in the specification. Consequently, the Applicant respectfully submits that claims 70-80 comply with the written description requirement and requests that the present rejection be withdrawn.

Claims 70-89 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 70-89 include independent claims 70, 76, and 81, but claims 81-89 have been canceled.

The Examiner is again referred to the enclosed Declaration of Inventor Jeffrey Arnold. In the Declaration, the inventor provides a correlation between a specific recited embodiment and the claim elements of claims 70 and 76 in order to help provide greater clarity as to the boundaries of the claim language

Thus, the Applicant respectfully submits that, in light of the Declaration, the boundaries of the claim language are described with sufficient clarity to meet the

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requirements of 112, second paragraph, and respectfully requests that the present rejection be withdrawn.

Additionally, the Applicant stands ready to consider alternative language suggested by the Examiner, should the Examiner choose to offer such language.

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CONCLUSION

If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited and encouraged to contact the Applicant at the number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: October 17, 2007

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